

Court of Appeals, State of Michigan

ORDER

People of MI v Sybil Ann Gause

Docket No. 292670

LC No. 03-001019-FH

Jane E. Markey
Presiding Judge

David H. Sawyer

Jane M. Beckering
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court PEREMPTORILY REVERSES the trial court's decision to set aside the 2003 embezzlement conviction. A person convicted "of not more than 1 offense" may apply to set aside the conviction. MCL 780.621(1). The term "offense" is not limited to felonies; it also includes misdemeanor offenses. *People v Grier*, 239 Mich App 521, 523; 608 NW2d 821 (2000). A conviction for a traffic offense constitutes an offense for purposes of MCL 780.621 and a subsequent conviction for a traffic offense precludes the setting aside and expunction of a prior conviction. *People v Bosma*, 186 Mich App 556, 558-560; 465 NW2d 24 (1990). In addition to her 2003 embezzlement conviction, defendant was convicted by guilty plea in 2004 of driving on a suspended license, a misdemeanor offense. MCL 257.904(3). Consequently, she was not eligible for expunction and the trial court erred in setting aside the conviction. Although the trial court may have some legitimate concerns regarding the effect of MCL 780.621 on the rehabilitation of those convicted of a crime, "[t]he wisdom of the statute is for the determination of the Legislature and the law must be enforced as written." *Gilliam v Hi Temp Products, Inc*, 260 Mich App 98, 109; 677 NW2d 856 (2003). This matter is REMANDED to the trial court for REINSTATEMENT of defendant's conviction. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 25 2009

Date

Sandra Schultz Mengel
Chief Clerk